

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

GEMALTO S.A.,	§	
	§	
	§	
Plaintiff	§	
	§	
v.	§	Civil Action No. 6:10-cv-00561
	§	
HTC CORPORATION, et al.,	§	
	§	
Defendants	§	<b>JURY TRIAL DEMANDED</b>
	§	

**SAMSUNG ELECTRONICS CO., LTD AND SAMSUNG TELECOMMUNICATIONS  
AMERICA LLC'S ANSWER TO PLAINTIFF'S AMENDED COMPLAINT FOR PATENT  
INFRINGEMENT**

Defendants Samsung Electronics Co., Ltd. ("SEC") and Samsung Telecommunications America LLC ("STA") (collectively, "Samsung") hereby answer the Amended Complaint for Patent Infringement ("Complaint") filed by Plaintiff Gemalto S.A. ("Gemalto") on January 26, 2011. Samsung denies each and every allegation contained in the Complaint that is not expressly admitted below.

**THE PARTIES**

1. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 1 of the Complaint, and therefore denies them.
2. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 2 of the Complaint, and therefore denies them.
3. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 3 of the Complaint, and therefore denies them.

4. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 4 of the Complaint, and therefore denies them.

5. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Complaint, and therefore denies them.

6. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Complaint, and therefore denies them.

7. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Complaint, and therefore denies them.

8. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Complaint, and therefore denies them.

9. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 9 of the Complaint, and therefore denies them.

10. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 10 of the Complaint, and therefore denies them.

11. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 11 of the Complaint, and therefore denies them.

12. Samsung admits that SEC is a Korean company. SEC denies the remaining allegations of paragraph 12 of the Complaint.

13. Samsung denies the first sentence of paragraph 13 of the Complaint. Samsung admits the remaining allegations of paragraph 13 of the Complaint.

14. Samsung admits that SEC makes and sells outside of the United States Android Devices having the Android Operating System and Android Applications. Samsung admits that STA sells and offers to sell in the United States Android Devices having the Android Operating

System and Android Applications, including mobile phones under the trade names Fascinate and Transform. Samsung denies the remaining allegations of paragraph 14 of the Complaint.

15. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15 of the Complaint, and therefore denies them.

16. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16 of the Complaint, and therefore denies them.

17. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 17 of the Complaint, and therefore denies them.

18. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 18 of the Complaint, and therefore denies them.

19. Samsung denies the allegations of paragraph 19 of the complaint to the extent they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 19 of the Complaint regarding other defendants, and therefore denies them.

20. Samsung admits that this is an action for patent infringement under the provision of the Patent Laws of the United States, and that this Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) over the claims brought against it in this suit, but SEC denies any liability thereunder.

21. Samsung admits, solely for purposes of this specific action, that SEC and STA do business in the State of Texas. The remaining allegations of the first sentence of paragraph 21 that are directed to Samsung state legal conclusions to which no responsive pleading is required. To the extent a responsive pleading is deemed to be required, Samsung admits that the Complaint purports to state that the Samsung is subject to personal jurisdiction in this judicial

district. SEC denies the allegations of the second sentence of paragraph 21. STA admits that it distributes, offers for sale, sells and uses Samsung products in the State of Texas. STA otherwise denies the allegations of the second sentence of paragraph 21. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 21 of the Complaint regarding the other defendants, and therefore denies them.

22. Samsung admits that Plaintiff alleges that venue in the Eastern District of Texas is proper under 28 U.S.C. §§ 1391 and 1400(b), but denies that the Eastern District of Texas is the most convenient venue for adjudication of the claims raised by Plaintiff in this action. Samsung denies the remaining allegations of paragraph 22 of the Complaint.

23. Samsung admits that United States Patent No. 6,308,317 entitled “Using a High Level Programming Language with a Microcontroller” appears on its face to have been issued on October 23, 2001. Samsung denies that the validity of the ’317 patent was reaffirmed by the United States Patent and Trademark Office. Samsung is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 23 of the Complaint, and therefore denies them.

24. Samsung admits that United States Patent No. 7,117,485 entitled “Using a High Level Programming Language with a Microcontroller” appears on its face to have been issued on October 3, 2006. Samsung is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 24 of the Complaint, and therefore denies them.

25. Samsung admits that United States Patent No. 7,818,727 entitled “Using a High Level Programming Language with a Microcontroller” appears on its face to have been issued on October 19, 2010. Samsung is without knowledge or information sufficient to form a belief as to

the truth of the remaining allegations set forth in paragraph 25 of the Complaint, and therefore denies them.

26. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26 of the Complaint, and therefore denies them.

27. Samsung denies that any Samsung application or the development thereof infringes any valid claim of the patents-in-suit. Samsung is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 27 of the Complaint, and therefore denies them.

28. Samsung denies that any device provided by Samsung infringes any valid claim of the patents-in-suit. Samsung is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations set forth in paragraph 28 of the Complaint, and therefore denies them.

29. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 29 of the Complaint regarding the other defendants, and therefore denies them.

#### **COUNT ONE**

30. Samsung incorporates by reference and repeats the statements set forth in paragraphs 1-29 above.

31. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 31 of the Complaint regarding the other defendants, and therefore denies them.

32. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 32 of the Complaint regarding the other defendants, and therefore denies them.

33. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 33 of the Complaint regarding the other defendants, and therefore denies them.

34. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 34 of the Complaint regarding the other defendants, and therefore denies them.

### **COUNT TWO**

35. Samsung incorporates by reference and repeats the statements set forth in paragraphs 1-29 above.

36. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 36 of the Complaint regarding the other defendants, and therefore denies them.

37. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 37 of the Complaint regarding the other defendants, and therefore denies them.

38. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 38 of the Complaint regarding the other defendants, and therefore denies them.

39. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 39 of the Complaint regarding the other defendants, and therefore denies them.

**COUNT THREE**

40. Samsung incorporates by reference and repeats the statements set forth in paragraphs 1-29 above.

41. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 41 of the Complaint regarding the other defendants, and therefore denies them.

42. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 42 of the Complaint regarding the other defendants, and therefore denies them.

43. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 43 of the Complaint regarding the other defendants, and therefore denies them.

44. Samsung denies the allegations as they pertain to Samsung. Samsung is without knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 44 of the Complaint regarding the other defendants, and therefore denies them.

**DEMAND FOR JURY TRIAL**

45. This paragraph requires no response.

**PRAYER FOR RELIEF**

Samsung denies that Plaintiff is entitled to any relief requested in its Prayer for Relief or any other relief.

### **AFFIRMATIVE DEFENSES**

Without acknowledging that Samsung bears the burden of proof or burden of persuasion with respect thereto, Samsung asserts the following affirmative defenses to the Complaint.

#### **First Affirmative Defense (Failure to State a Claim)**

The Complaint fails to state a claim upon which relief can be granted.

#### **Second Affirmative Defense (Invalidity)**

The subject matter of United States Patent Nos. 6,308,317, 7,117,485, and 7,818,727 do not meet the requirements of 35 U.S.C. § 101, *et seq.* and therefore are invalid, void and unenforceable because they fail to meet the conditions specified in 35 U.S.C. § 101, *et seq.*, including but not limited to 35 U.S.C. §§ 101, 102, 103, 112 and/or 116.

#### **Third Affirmative Defense (35 U.S.C. § 286)**

Plaintiff's recovery for alleged infringement of United States Patent Nos. 6,308,317, 7,117,485, and 7,818,727, if any, is limited to any alleged infringement committed no more than six years prior to the filing of its Complaint pursuant to 35 U.S.C. § 286.

#### **Fourth Affirmative Defense (35 U.S.C. § 287)**

Any claim for damages for patent infringement by Plaintiff is limited by 35 U.S.C. § 287 to those damages occurring only after the notice of infringement.

#### **Fifth Affirmative Defense (Improper Joinder)**

The Defendants are improperly joined.



**Sixth Affirmative Defense  
(Non-Infringement)**

Samsung has not and does not infringe any valid claim of United States Patent Nos. 6,308,317, 7,117,485, and 7,818,727, either directly or indirectly, literally or under the doctrine of equivalents.

**Seventh Affirmative Defense  
(Absolute and Equitable Intervening Rights)**

On information and belief, Plaintiff's claims and requested relief are barred in whole or in part by 35 U.S.C. § 252.

**RESERVATION OF ADDITIONAL DEFENSES**

Samsung reserves all affirmative defenses under Rule 8(c) of the Federal Rules of Civil Procedure, the Patent Laws of the United States, and any other defenses, at law and equity, that may now or in the future be available based on discovery or any other factual investigation concerning this case or any related action.

**JURY DEMAND**

Samsung demands a trial by jury of all issues so triable in this action.

**PRAYER FOR RELIEF**

WHEREFORE, Samsung prays for relief as follows:

- A. That Plaintiff's Complaint be dismissed in its entirety with prejudice and that Plaintiff takes nothing thereon;
- B. That Samsung be awarded its costs, disbursements and attorneys' fees incurred in this action pursuant to 35 U.S.C. § 285, and other provisions of law; and
- C. That Samsung be granted such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: February 25, 2011

By: /s/ Brian K. Erickson

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ATTORNEYS FOR DEFENDANTS  
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AMERICA LLC

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 25th day of February 2011, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3). Any other counsel of record will be served by a facsimile transmission and/or first class mail.

/s/ Brian K. Erickson  
Brian K. Erickson